

**Illinois Department of Revenue
Regulations**

Title 86 Part 130 Section 130.2105 Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfers of Data Downloaded Electronically

TITLE 86: REVENUE

**PART 130
RETAILERS' OCCUPATION TAX**

Section 130.2105 Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfers of Data Downloaded Electronically

- a) Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings
 - 1) Sellers of books, sheet music and musical recordings, including phonograph records, incur Retailers' Occupation Tax liability when they sell any of these items to purchasers for use or consumption and not for resale.
 - 2) Sales of newspapers and magazines are not subject to the tax because of the newsprint and ink exemption (see Section 1 of the Act). In determining whether a publication qualifies as a magazine for the purpose of the newsprint and ink exemption, there is one test that must be met and several other factors to be considered. The test that must be met for a publication to qualify as a magazine is that it must be published periodically in the form of newsprint and ink. Periodically means at least two times per year. The other factors to be considered are whether a member of the public can subscribe to the publication, whether the publication is one that has the basic format of a magazine, including soft covers, individual pages and indexed articles, whether it contains articles and items that have value to the general public, and whether it contains general advertising. A publication that has one or more of these characteristics would be considered to be a magazine, assuming the initial test of periodic publication is met. Tangible personal property that conveys news by media other than newsprint and ink does not qualify for the exemption because Section 1 of the Retailers' Occupation Tax Act limits the exemption to news and information conveyed only by means of newsprint and ink. For example, the exemption does not extend to the transfer of news by film, microfilm or CD-Rom discs.
 - 3) Information or data that is downloaded electronically, such as downloaded books, musical recordings, newspapers or magazines, does not constitute the transfer of tangible personal property. These types of transactions represent the transfer of intangibles and are thus not subject to Retailers' Occupation and Use Tax. However, downloads of canned software, as defined more fully in Section 130.1935 of this Part, are subject to Retailers' Occupation and Use Tax.

- 4) Sales by exclusively religious, charitable or educational organizations of books or other items containing such organizations' own individualized literature which cannot be bought from persons who are engaged in business are not subject to the Retailers' Occupation Tax even if such sales are made to the public because such sales are not competitive with retailers.
 - 5) Sales of school books by schools to their students are not considered to be sales that are made "primarily for the purpose" of the school and so are subject to the Retailers' Occupation Tax.
- b) Suppliers of Persons Who Sell Newspapers, Magazines, Books, Sheet Music and Musical Recordings
- 1) Use or Consumption

Persons who engage in selling equipment and supplies and other tangible personal property, to purchasers who sell newspapers, magazines, books, sheet music or musical recordings, including phonograph records, and who retain and use or consume such equipment and supplies, are engaged in the business of selling tangible personal property to purchasers for use or consumption and incur Retailers' Occupation Tax liability when making such sales. However, the proceeds from the sale of graphic arts machinery and equipment, including repair and replacement parts therefor, both new and used, including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production, are not subject to the tax.
 - 2) Resale
 - A) However, suppliers of persons who sell newspapers, magazines, books, sheet music or musical recordings, including phonograph records, do not incur Retailers' Occupation Tax liability when selling tangible personal property to such persons for resale.
 - B) This latter class of sales includes sales of paper stock, ink, glue, brads, binding tape, staples, phonograph record blanks and other tangible personal property, where such tangible personal property is purchased by persons who sell newspapers, magazines, books, sheet music or musical recordings, including phonograph records, and is incorporated physically by them, as ingredients or constituents, into newspapers, magazines, books, sheet music or musical recordings, including phonograph records which they sell to others.

(Source: Amended at 25 Ill. Reg. 6713, effective May 8, 2001)